IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 31831 of 2006(M)

AGAINST THE ORDER N CC 85/2004 IN
CC.38/2004 of J.M.F.C., RAMANKARI
CC.85/2004 of J.M.F.C., RAMANKARI

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PETITIONER:

THEVAN CHELLAPPAN, AGED 50 YEARS,
S/O. THEVAN, MANNANTE PARAMBIL HOUSE,
KARUVATTA SOUTH, KARTHIKAPPALLY,
ALAPPUZHA DISTRICT.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
ALAPPUZHA.

2. THE DEPUTY TAHSILDAR,
KARTHIKAPPALLY.

3. THE VILLAGE OFFICER,
KARUVATTA, ALAPPUZHA DISTRICT.

BY GOVERNMENT PLEADER SRI.K.A.AKBAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

W.P.C.NO.31831 OF 2006

Dated this the 30th day of November, 2006.

JUDGMENT

The petitioner has suffered an order under Section 446 Cr.P.C. The petitioner must have invoked his right under Section 449 Cr.P.C to prefer an appeal. Instead, he has come to this Court. He prays that interim orders may be passed restraining the sale of movable properties. The petitioner's remedy lies elsewhere. The petitioner who has a statutory right of appeal, should not and need not come to this Court with this unjustified prayer to invoke the constitutional jurisdiction under Article 226. The petitioner must immediately rush to the appellate court and file a proper appeal against the impugned order. Even hard cases cannot persuade the Court to err in law and invoke the Constitutional powers when no legal justification exists. This is a case, where, I have no doubt that the petitioner must seek his remedy before the appellate court in the regular and ordinary course of law. No circumstances to deviate from the normal course are shown to exist.

2. This Writ Petition is, in these circumstances, dismissed.

R.BASANT
JUDGE

rtr/